

Remarks**Restriction Requirement**

The Examiner requires restriction to one of the following inventions:

- I. Claims 1 - 7, drawn to an apparatus, classified in class 435, subclass 283.1, for example.
- II. Claims 8 - 12, drawn to a method for making a bone graft, classified in class 424, subclass 93.7, for example.
- III. Claims 13 - 17, drawn to a method for making a bone graft, classified in class 435, subclass 372, for example.
- IV. Claims 18 - 19, drawn to a bone graft, classified in class 424, subclass 422, for example.
- V. Claims 20 - 22, drawn to a method for making a bone graft, classified in class 424, subclass 529, for example.

In view of the similarity in the structure and elements of the claims and applicant's concern that a showing of distinctiveness has not been made, applicant admits that the claimed inventions would have been obvious over each other within the meaning of 35 U.S.C. 103. Therefore restriction between Inventions I, II, III, IV and V should not be required. See MPEP § 803; *In re Lee*, 199 USPQ 108 (Comm'r Pat. 1978).

Based on the prior art, it appears to applicant that claims of the type presented in the present application are routinely classified in Class 623, Subclass 16 or 23 (see e.g. U.S. 5,824,084; U.S. 6,049,026). It is not clear to applicant why the claims of the present application would be classified in either Class 424 or 435, as suggested by the Examiner in the foregoing claim groupings. Applicant is of the view that the inventions as claimed have not achieved a separate classification, that the field of search is the same, that search and examination of all of the claims can be made without serious burden, and that the Patent Office has not met its burden of demonstrating distinctiveness between the five sets of claims. It also appears to applicant that February 14, 2006 restriction requirement did not attempt to make a showing of distinctiveness

SN 10/682,289

between the following inventions: I and III; I and V; and IV and V. However, as noted above, restriction should not be required in view of applicant's admission.

Claims 13, 19 and 22 have been amended to correct typographical errors. No new matter is added by the amendments, and none of the amendments relate to any reason related to patentability.

It is believed that this response has been filed within the applicable time period for responding and that no extension of time is therefore required, but if an extension is required, applicant hereby requests an appropriate extension of time. It is further believed that no fees are due, but if any fees or credits are due, the Commissioner is authorized to charge or deposit them to Deposit Account No. 502795.

Respectfully submitted,



Shawn D. Sentilles, Reg. No. 38,299
WRIGHT MEDICAL TECHNOLOGY, INC.
(USPTO Customer No. 37902)
5677 Airline Road
Arlington, TN 38002
Telephone: 901-867-4314

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